MONTANA LEGISLATIVE HISTORY

Chapter N/A 19 89

Bill H _____ S 468 Original bill & history ✓ C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)	4-5	✓ C	Hearing Date(s)	3-22	✓ C
		C			C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

3/16 INTRODUCED
3/20 FISCAL NOTE RECEIVED
3/21 HEARING
3/22 FISCAL NOTE PRINTED
DIED IN COMMITTEE

SB 468 INTRODUCED BY HARP, ET AL.
REVISE CERTAIN TAXES AND REVENUE ALLOCATIONS IN RESPONSE TO "LOBLE"

3/20 INTRODUCED
3/20 REFERRED TO TAXATION
3/21 FISCAL NOTE REQUESTED
3/21 FISCAL NOTE RECEIVED
3/22 HEARING
3/22 FISCAL NOTE PRINTED
3/27 COMMITTEE REPORT--BILL PASSED AS AMENDED
3/29 2ND READING PASSED AS AMENDED 49 0
3/30 3RD READING PASSED 50 0

TRANSMITTED TO HOUSE
3/30 REFERRED TO TAXATION
4/05 HEARING
4/11 COMMITTEE REPORT--BILL CONCURRED AS AMENDED
4/12 2ND READING CONCURRED AS AMENDED 53 46
4/13 3RD READING CONCURRED 53 47

RETURNED TO SENATE WITH AMENDMENTS
4/18 2ND READING AMENDMENTS NOT CONCURRED 43 6
4/19 FREE CONFERENCE COMMITTEE APPOINTED

HOUSE
4/19 FREE CONFERENCE COMMITTEE APPOINTED

DIED IN PROCESS

SB 469 INTRODUCED BY CRIPPEN, ET AL.
IMPOSE A SALES AND USE TAX AND PROVIDE FOR THE DISTRIBUTION OF REVENUE

3/27 HEARING
3/27 INTRODUCED
3/27 REFERRED TO TAXATION
3/27 COMMITTEE REPORT--BILL PASSED AS AMENDED
3/28 FISCAL NOTE REQUESTED
3/28 2ND READING PASSED AS AMENDED 26 24
3/29 3RD READING PASSED 27 23

TRANSMITTED TO HOUSE
3/29 REFERRED TO TAXATION
4/04 FISCAL NOTE RECEIVED
4/06 HEARING
4/06 FISCAL NOTE PRINTED
4/10 HEARING
4/10 TABLED IN COMMITTEE
4/18 MOTION FAILED TO TAKE FROM COMMITTEE 13 86
DIED IN COMMITTEE

SB 470 INTRODUCED BY HAMMOND, ET AL.
ALLOW THIRD-CLASS ELEMENTARY DISTRICT TO REDUCE

Senate BILL NO. 468

INTRODUCED BY HARP Driscoll Mills

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN LAWS RELATED TO TAXES, ALLOCATIONS OF STATE REVENUES, AND PUBLIC SCHOOL FINANCE; PROVIDING ADDITIONAL FUNDING FOR THE SCHOOL FOUNDATION PROGRAM BY CONTINUING THE 10 PERCENT SURTAX ON PERSONAL INCOME AND ALLOCATING THE INCREMENTAL REVENUE DERIVED THEREBY TO STATE EQUALIZATION OF THE FOUNDATION PROGRAM; INCREASING THE TOTAL LEVY FOR COUNTY EQUALIZATION OF THE FOUNDATION PROGRAM FROM 45 MILLS TO 75 MILLS; ELIMINATING THE SCHOOL DISTRICT PERMISSIVE LEVIES; AMENDING SECTIONS 15-1-501, 15-10-402, 15-30-108, 15-35-108, 17-5-408, 17-5-704, 20-3-324, 20-5-305, 20-5-312, 20-9-141, 20-9-301, 20-9-331, 20-9-333, AND 20-9-343, MCA, AND SECTION 12, CHAPTER 666, LAWS OF 1987; REPEALING SECTION 20-9-352, MCA; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of moneys from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all moneys money received by him from the collection of:

(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(b) electrical energy producer's license taxes under chapter 51;

(c) severance taxes allocated to the general fund under chapter 36;

(d) liquor license taxes under Title 16;

(e) telephone [company] license taxes under chapter 53; and

(f) inheritance and estate taxes under Title 72, chapter 16.

(2) All moneys money received from the collection of income taxes under chapter 30 of this title shall must be deposited as follows:

(a) ~~58.2%~~ 52.9% to the credit of the state general fund;

(b) ~~10%~~ 9.1% to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~31.8%~~ 38% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(3) All moneys money received from the collection of corporation license and income taxes under chapter 31 of

INTRODUCED BILL
SB 468

this title, except as provided in 15-31-702, ~~shall~~ must be deposited as follows:

(a) ~~64%~~ 52.9% to the credit of the state general fund;

(b) ~~11%~~ 9.1% to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~25%~~ 38% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(4) The state treasurer shall also deposit to the credit of the state general fund all ~~moneys~~ money received by him from the collection of license taxes, fees, and all net revenues and receipts from all other sources under the operation of the Montana Alcoholic Beverage Code.

(5) After the distribution provided for in 15-36-112, the remainder of the oil severance tax collections ~~shall~~ must be deposited in the general fund."

Section 2. Section 15-10-402, MCA, is amended to read:

"15-10-402. Property tax limited to 1986 levels. (1) Except as provided in subsections (2) and (3), the amount of taxes levied on property described in 15-6-133, 15-6-134, 15-6-136, 15-6-139, 15-6-142, and 15-6-144 may not, for any taxing jurisdiction, exceed the amount levied for taxable year 1986.

(2) The limitation contained in subsection (1) does not apply to levies for rural improvement districts, Title 7, chapter 12, part 21; special improvement districts, Title 7, chapter 12, part 41; elementary and high school equalization aid, 20-9-331 and 20-9-333; or bonded indebtedness.

(3) New construction or improvements to or deletions from property described in subsection (1) are subject to taxation at 1986 levels.

(4) As used in this section, the "amount of taxes levied" and the "amount levied" mean the actual dollar amount of taxes imposed on an individual piece of property, notwithstanding an increase or decrease in value due to inflation, reappraisal, adjustments in the percentage multiplier used to convert appraised value to taxable value, changes in the number of mills levied, or increase or decrease in the value of a mill."

Section 3. Section 15-30-108, MCA, is amended to read:

"15-30-108. (Temporary) Surtax. After In addition to the amount of tax liability ~~has been~~ computed as required in 15-30-103, each person filing a Montana individual income tax return shall add as a surtax 10% of the tax liability~~, and the amount so arrived at is the amount due the state. (Terminates December 31, 1989 sec. 12, Ch. 666, L. 1987.)~~."

Section 4. Section 15-35-108, MCA, is amended to read:

"15-35-108. Disposal of severance taxes. Severance

taxes collected under this chapter must be allocated according to the provisions in effect on the date the tax is due under 15-35-104. Severance taxes collected under the provisions of this chapter are allocated as follows:

(1) To the trust fund created by Article IX, section 5, of the Montana constitution, 50% of total coal severance tax collections. The trust fund moneys shall be deposited in the fund established under 17-6-203(5) and invested by the board of investments as provided by law.

(2) Starting July 1, 1987, and ending June 30, 1993, 12% of coal severance tax collections are allocated to the highway reconstruction trust fund account in the state special revenue fund.

(3) Coal severance tax collections remaining after the allocations provided by subsections (1) and (2) are allocated in the following percentages of the remaining balance:

(a) prior to July 1, 1989, and after June 30, 1991, 4 1/2% to the state special revenue fund to the credit of the alternative energy research development and demonstration account;

(b) ~~4%-until~~ after June 30, ~~1989~~ 1991, ~~to--the--state special--revenue--fund--to--the--credit--of-the-local-impact account-and-thereafter~~ 20% to the state special revenue fund to the credit of the local impact and education trust fund

account and 17.5% to the credit of the local impact account. Unencumbered funds remaining in the local impact account at the end of each biennium are allocated to the ~~education trust--fund--account~~ state special revenue fund for state equalization aid to public schools of the state.

(c) 44.2% until June 30, 1989, 59.95% until June 30, 1991, and thereafter 10% to the state special revenue fund for state equalization aid to public schools of the state;

(d) prior to July 1, 1989, and after June 30, 1991, 1% to the state special revenue fund to the credit of the county land planning account;

(e) prior to July 1, 1989, and after June 30, 1991, 1 1/4% to the credit of the renewable resource development bond fund;

(f) after June 30, ~~1989~~ 1991, 5% to a nonexpendable trust fund for the purpose of parks acquisition or management, protection of works of art in the state capitol, and other cultural and aesthetic projects. Income from this trust fund shall be appropriated as follows:

(i) 1/3 for protection of works of art in the state capitol and other cultural and aesthetic projects; and

(ii) 2/3 for the acquisition, development, operation, and maintenance of any sites and areas described in 23-1-102;

(g) 1% to the state special revenue fund to the credit

of the state library commission for the purposes of providing basic library services for the residents of all counties through library federations and for payment of the costs of participating in regional and national networking;

(h) 1/2 of 1% to the state special revenue fund for conservation districts;

(i) 1 1/4% to the debt service fund type to the credit of the water development debt service fund;

(j) 2% to the state special revenue fund for the Montana Growth Through Agriculture Act;

(k) all other revenues from severance taxes collected under the provisions of this chapter to the credit of the general fund of the state."

Section 5. Section 17-5-408, MCA, is amended to read:

"**17-5-408. Percentage of income, corporation license, and cigarette tax pledged.** (1) (a) The state pledges and appropriates and directs to be credited as received to the debt service account ~~10%~~ 9.1% of all money received from the collection of the individual income tax and ~~11%~~ 9.1% of all money, except as provided in 15-31-702, received from the collection of the corporation license and income tax as provided in 15-1-501, and ~~such~~ any additional amount of ~~said~~ those taxes, if any, as may at any time be needed to comply with the principal and interest and reserve requirements stated in 17-5-405(4).

(b) No more than the percentages described in subsection (1)(a) of ~~such~~ the tax collections may be pledged for the purpose of 17-5-403(2). The pledge and appropriation ~~herein~~ made ~~shall be and remain at all times~~ in this section is a first and prior charge upon all money received from the collection of ~~said~~ the taxes.

(2) The state pledges and appropriates and directs to be credited to the debt service account 79.75% of all money received from the collection of the excise tax on cigarettes which is levied, imposed, and assessed by 16-11-111. The state also pledges and appropriates and directs to be credited as received to the debt service account all money received from the collection of the taxes on other tobacco products which are or may hereafter be levied, imposed, and assessed by law for that purpose, including the tax levied, imposed, and assessed by 16-11-202. Nothing ~~herein--shall impair~~ in this section impairs or otherwise ~~affect~~ affects the provisions and covenants contained in the resolutions authorizing the presently outstanding long-range building program bonds. Subject to the provisions of the preceding sentence, the pledge and appropriation ~~herein made shall be and remain at all times~~ made in this section is a first and prior charge upon all money received from the collection of all taxes referred to in this subsection (2)."

Section 6. Section 17-5-704, MCA, is amended to read:

"17-5-704. Investment of funds. ~~(1)~~ Money in the coal severance tax bond fund, the coal severance tax permanent fund, and the coal severance tax income fund must be invested in accordance with the investment standards for coal severance tax funds ~~except as provided in subsection (2)~~. Income and earnings from all funds must be transferred to and retained in the coal severance tax income fund until appropriated by the legislature.

~~(2) Beginning on July 1, 1987, the legislature shall appropriate 2% of the income and earnings from all funds to be deposited to the coal severance tax permanent fund each year.~~

~~(3) Beginning on July 1, 1989, the legislature shall appropriate 15% of the income and earnings from all funds to be deposited to the coal severance tax permanent fund each year. The funds appropriated to the coal severance tax permanent fund under this subsection may not be further appropriated except by vote of three-fourths of the members of each house of the legislature.~~"

Section 7. Section 20-3-324, MCA, is amended to read:

"20-3-324. Powers and duties. As prescribed elsewhere in this title, the trustees of each district shall ~~have the power and it shall be their duty to perform the following duties or acts:~~

(1) employ or dismiss a teacher, principal, or other

assistant upon the recommendation of the district superintendent, the county high school principal, or other principal as the board ~~may deem~~ considers necessary, accepting or rejecting ~~such~~ any recommendation as the trustees ~~shall~~ in their sole discretion determine, in accordance with the provisions of Title 20, chapter 4;

(2) employ and dismiss administrative personnel, clerks, secretaries, teacher aides, custodians, maintenance personnel, school bus drivers, food service personnel, nurses, and any other personnel ~~deemed~~ considered necessary to carry out the various services of the district;

(3) administer the attendance and tuition provisions and otherwise govern the pupils of the district in accordance with the provisions of the pupils chapter of this title;

(4) call, conduct, and certify the elections of the district in accordance with the provisions of the school elections chapter of this title;

(5) participate in the teachers' retirement system of the state of Montana in accordance with the provisions of the teachers' retirement system chapter of Title 19;

(6) participate in district boundary change actions in accordance with the provisions of the districts chapter of this title;

(7) organize, open, close, or acquire isolation status

for the schools of the district in accordance with the provisions of the school organization part of this title;

(8) adopt and administer the annual budget or an emergency budget of the district in accordance with the provisions of the school budget system part of this title;

(9) conduct the fiscal business of the district in accordance with the provisions of the school financial administration part of this title;

(10) establish the ANB, foundation program, ~~permissive levy,~~ additional levy, cash reserve, and state impact aid amount for the general fund of the district in accordance with the provisions of the general fund part of this title;

(11) establish, maintain, budget, and finance the transportation program of the district in accordance with the provisions of the transportation parts of this title;

(12) issue, refund, sell, budget, and redeem the bonds of the district in accordance with the provisions of the bonds parts of this title;

(13) when applicable, establish, financially administer, and budget for the tuition fund, retirement fund, building reserve fund, adult education fund, nonoperating fund, school food services fund, miscellaneous federal programs fund, building fund, lease or rental agreement fund, traffic education fund, and interlocal cooperative agreement fund in accordance with the provisions

of the other school funds parts of this title;

(14) when applicable, administer any interlocal cooperative agreement, gifts, legacies, or devises in accordance with the provisions of the miscellaneous financial parts of this title;

(15) hold in trust, acquire, and dispose of the real and personal property of the district in accordance with the provisions of the school sites and facilities part of this title;

(16) operate the schools of the district in accordance with the provisions of the school calendar part of this title;

(17) establish and maintain the instructional services of the schools of the district in accordance with the provisions of the instructional services, textbooks, vocational education, and special education parts of this title;

(18) establish and maintain the school food services of the district in accordance with the provisions of the school food services parts of this title;

(19) make such reports from time to time as the county superintendent, superintendent of public instruction, and board of public education may require;

(20) retain, when ~~deemed~~ considered advisable, a physician or registered nurse to inspect the sanitary

conditions of the school or the general health conditions of each pupil and, upon request, make available to any parent or guardian any medical reports or health records maintained by the district pertaining to his child;

(21) for each member of the trustees, visit each school of the district not less than once each school fiscal year to examine its management, conditions, and needs, except trustees from a first-class school district may share the responsibility for visiting each school in the district;

(22) procure and display outside daily in suitable weather at each school of the district an American flag ~~which shall be~~ that measures not less than 4 feet by 6 feet; and

(23) perform any other duty and enforce any other requirements for the government of the schools prescribed by this title, the policies of the board of public education, or the rules of the superintendent of public instruction."

Section 8. Section 20-5-305, MCA, is amended to read:

"**20-5-305. Elementary tuition rates.** (1) Whenever a pupil of an elementary district has been granted approval to attend a school outside of the district in which he resides, under the provisions of 20-5-301 or 20-5-302, ~~such~~ the district of residence shall pay tuition to the elementary district where the pupil attends school. Except as provided in subsection (2), the basis of the rate of tuition ~~shall~~ must be determined by the attended district. The rate of tuition ~~shall~~ must be determined by:

(a) totaling the actual expenditures from the district general fund, the debt service fund, and, if the pupil is a resident of another county, the retirement fund;

(b) dividing the amount determined in subsection (1)(a) by the ANB of the district for the current fiscal year, as determined under the provisions of 20-9-311; and

(c) subtracting ~~the total of~~ from the amount determined in subsection (1)(b) the per-ANB amount allowed by 20-9-316 through 20-9-321 that represents the foundation program as prescribed by 20-9-303 ~~plus the per-ANB amount determined by dividing the state financing of the district permissive levy by the ANB of the district, from the amount determined in subsection (1)(b)~~.

(2) The tuition for a full-time elementary special education pupil must be determined under rules adopted by the superintendent of public instruction for the calculation of elementary tuition for full-time elementary special education pupils as designated in 20-9-311 for funding purposes."

Section 9. Section 20-5-312, MCA, is amended to read:

"**20-5-312. Reporting, budgeting, and payment for high school tuition.** (1) Except as provided in subsection (2), at the close of the school term of each school fiscal year, the

trustees of each high school district shall determine the rate of tuition for the current school fiscal year by:

(a) totaling the actual expenditures from the district general fund, the debt service fund, and, if the pupil is a resident of another county, the retirement fund;

(b) dividing the amount determined in subsection (1)(a) above by the ANB of the district for the current fiscal year, as determined under the provisions of 20-9-311; and

(c) subtracting ~~the--total---of~~ from the amount determined in subsection (1)(b) the per-ANB amount allowed by 20-9-316 through 20-9-321 that represents the foundation program as prescribed by 20-9-303 ~~plus-the-per-ANB-amount determined-by-dividing-the-state-financing-of--the--district permissive--levy-by-the-ANB-of-the-district,-from-the-amount determined-in-subsection-(1)(b)-above.~~

(2) The tuition for a full-time high school special education pupil must be determined under rules adopted by the superintendent of public instruction for the calculation of tuition for full-time high school special education pupils as designated in 20-9-311 for funding purposes.

(3) Before July 15, the trustees shall report to the county superintendent of the county in which the district is located:

(a) the names, addresses, and resident districts of

the pupils attending the schools of the district under an approved tuition agreement;

(b) the number of days of school attended by each pupil;

(c) the amount, if any, of each pupil's tuition payment that the trustees, in their discretion, ~~shall~~ have the authority to waive; and

(d) the rate of current school fiscal year tuition, as determined under the provisions of this section.

(4) When the county superintendent receives a tuition report from a district, he shall immediately send the reported information to the superintendent of each district in which the reported pupils reside.

(5) When the district superintendent receives a tuition report or reports for high school pupils residing in his district and attending an out-of-district high school under approved tuition agreements, he shall determine the total amount of tuition due ~~such~~ the out-of-district high schools on the basis of the following per-pupil schedule: the rate of tuition, number of pupils attending under an approved tuition agreement, and other information provided by each high school district where resident district pupils have attended school.

(6) The total amount of the high school tuition, with consideration of any tuition waivers, for pupils attending a

high school outside the county of residence ~~shall~~ must be financed by the county basic special tax for high schools as provided in 20-9-334. In December, the county superintendent shall cause the payment by county warrant of at least one-half of the high school tuition obligations established under this section out of the first ~~moneys~~ proceeds realized from the county basic special tax for high schools. The remaining obligations must be paid by June 15 of the school fiscal year. The payments ~~shall~~ must be made to the county treasurer of the county where each high school entitled to tuition is located. The county treasurer shall credit such tuition receipts to the general fund of the applicable high school district, and the tuition receipts ~~shall~~ must be used in accordance with the provisions of 20-9-141.

(7) For pupils attending a high school outside their district of residence but within the county of residence, the total amount of the tuition, with consideration of any tuition waivers, must be paid during the ensuing school fiscal year. The trustees of the sending high school district shall include the tuition amount in the tuition fund of the preliminary and final budgets. This budgeted tuition amount is not subject to the budget adjustment provisions of 20-9-132. The county superintendent shall report the net tuition fund levy requirement for each high school district to the county commissioners on the second

Monday of August, and a levy on the district ~~shall~~ must be made by the county commissioners in accordance with 20-9-142. This levy requirement ~~shall~~ must be calculated by subtracting from the total expenditure amount authorized in the final tuition fund budget the sum of the cash balance in the tuition fund at the end of the immediately preceding school fiscal year plus any other anticipated money that may be realized in the tuition fund. The trustees shall pay by warrants drawn on the tuition fund the tuition amounts owed to each district included in the county superintendent's notification. Payments ~~shall~~ must be made whenever there is a sufficient amount of cash available in the tuition fund but no later than the end of the school fiscal year for which the budget is adopted. However, if the trustees of either the sending or receiving high school district feel the transfer privilege provided by this subsection is being abused, they may appeal to the county superintendent of schools, who shall hold a hearing and either approve or disapprove the transfer."

Section 10. Section 20-9-141, MCA, is amended to read:

"20-9-141. Computation of general fund net levy requirement by county superintendent. (1) The county superintendent shall compute the levy requirement for each district's general fund on the basis of the following procedure:

(a) Determine the ~~total of the~~ funding required for the district's final general fund budget less the foundation program amount established by ~~the schedules in 20-9-316 through 20-9-321~~ 20-9-303 by totaling:

(i) the district's nonisolated school foundation program requirement to be met by a district levy as provided in 20-9-303;

~~(ii) the district's permissive levy amount as provided in 20-9-352;~~ and

~~(iii)~~(ii) any additional general fund budget amount adopted by the trustees of the district under the provisions of 20-9-353, including any additional levies authorized by the electors of the district.

(b) Determine the ~~total of the moneys~~ money available for the reduction of the property tax on the district for the general fund by totaling:

(i) anticipated federal ~~moneys~~ money received under the provisions of Title I of Public Law 81-874 or other anticipated federal ~~moneys~~ money received in lieu of ~~such federal~~ that act;

(ii) anticipated tuition payments for out-of-district pupils under the provisions of 20-5-303, 20-5-307, 20-5-312, and 20-5-313;

(iii) general fund cash reappropriated, as established under the provisions of 20-9-104;

(iv) anticipated or reappropriated state impact aid received under the provisions of 20-9-304;

(v) anticipated revenue from ~~vehicle property taxes~~ and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), and 61-3-537, and 67-3-204;

(vi) anticipated net proceeds taxes for interim production and new production, as defined in 15-23-601;

(vii) anticipated interest to be earned on reappropriated interest earned by the investment of general fund cash in accordance with the provisions of 20-9-213(4); and

(viii) any other revenue anticipated by the trustees to be received during the ensuing school fiscal year which may be used to finance the general fund.

(c) Subtract the ~~total of the moneys~~ money available to reduce the property tax required to finance the general fund that has been determined in subsection (1)(b) from the total requirement determined in subsection (1)(a).

(2) The net general fund levy requirement determined in subsection (1)(c) ~~shall~~ must be reported to the county commissioners on the second Monday of August by the county superintendent as the general fund levy requirement for the district, and a levy ~~shall~~ must be made by the county commissioners in accordance with 20-9-142."

Section 11. Section 20-9-301, MCA, is amended to read:

"20-9-301. Purpose ~~and---definition~~ of foundation program and definition of general fund budget. (1) A uniform system of free public schools sufficient for the education of and open to all school age children of the state ~~shall~~ must be established and maintained throughout the state of Montana. The state shall aid in the support of its several school districts on the basis of their financial need as measured by the foundation program and in the manner established in this title.

(2) The principal budgetary vehicle for achieving the minimum financing as established by the foundation program ~~shall-be~~ is the general fund budget of the district. The purpose of the general fund ~~shall-be~~ budget is to finance those general maintenance and operational costs of a district not financed by other funds established for special purposes in this title.

(3) The amount of the general fund budget for each school fiscal year ~~shall~~ may not exceed the financing limitations established by this title but ~~shall-be-no~~ may not be less than the amount established by law as the foundation program. The general fund budget ~~shall~~ must be financed by the foundation program ~~revenues~~ and may be supplemented by ~~the-permissive-levy-and~~ an additional voted ~~levies~~ levy in the manner provided by law."

Section 12. Section 20-9-331, MCA, is amended to read:

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"20-9-331. Basic county tax and other revenues for county equalization of the elementary district foundation program. (1) ~~It--shall--be--the--duty--of--the~~ The county commissioners of each county to shall levy an annual basic tax of ~~28~~ 46.67 mills on the dollars of the taxable value of all taxable property within the county, except ~~for--vehicles~~ property subject to ~~taxation~~ a tax or fee under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the purposes of local and state foundation program support. The revenue ~~to--be~~ collected from this levy ~~shall~~ must be apportioned to the support of the foundation programs of the elementary school districts in the county and to the state special revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the sum of the estimated ~~revenues~~ revenue identified in subsection (2) below ~~shall~~ must be subtracted from the sum of the county elementary transportation obligation and the total of the foundation programs of all elementary districts of the county.

(b) If the basic levy prescribed by this section produces more revenue than is required to finance the difference determined above, the county treasurer shall remit the surplus funds to the state treasurer for deposit

to the state special revenue fund, state equalization aid account, immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The ~~proceeds~~ revenue realized from the county's portion of the levy prescribed by this section and the ~~revenues~~ revenue from the following sources ~~shall~~ must be used for the equalization of the elementary district foundation programs of the county as prescribed in 20-9-334, and a separate accounting ~~shall~~ must be kept of ~~such proceeds and revenues~~ the revenue by the county treasurer in accordance with 20-9-212(1):

(a) the portion of the federal Taylor Grazing Act funds distributed to a county and designated for the common school fund under the provisions of 17-3-222;

(b) the portion of the federal flood control act funds distributed to a county and designated for expenditure for the benefit of the county common schools under the provisions of 17-3-232;

(c) all money paid into the county treasury as a result of fines for violations of law, except money paid to a justice's court, and the use of which is not otherwise specified by law;

(d) any money remaining at the end of the immediately

preceding school fiscal year in the county treasurer's ~~account~~ accounts for the various sources of revenue established or referred to in this section;

(e) any federal or state money distributed to the county as payment in lieu of ~~the~~ property taxation ~~established by the county levy required by this section~~, including federal forest reserve funds allocated in 17-3-213;

(f) net proceeds taxes for interim production and new production, as defined in 15-23-601; and

(g) anticipated revenue from ~~vehicle~~ property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), and 61-3-521, 61-3-537, and 67-3-204."

Section 13. Section 20-9-333, MCA, is amended to read:

"20-9-333. Basic special levy and other revenues for county equalization of high school district foundation program. (1) ~~It shall be the duty of the~~ The county commissioners of each county to shall levy an annual basic special tax for high schools of ~~17~~ 28.33 mills on the dollar of the taxable value of all taxable property within the county, except for ~~vehicles~~ property subject to ~~taxation~~ taxes or fees under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, 61-3-537, and 67-3-204, for the purposes of local and state foundation program support. The revenue ~~to be~~ collected from this levy ~~shall~~ must be apportioned to the

support of the foundation programs of high school districts in the county and to the state special revenue fund, state equalization aid account, in the following manner:

(a) In order to determine the amount of revenue raised by this levy which is retained by the county, the estimated ~~revenues~~ revenue identified in ~~subsections (2)(a) and (2)(b) below shall be~~ subsection (2) is subtracted from the sum of the county's high school tuition obligation and the total of the foundation programs of all high school districts of the county.

(b) If the basic levy prescribed by this section produces more revenue than is required to finance the difference determined ~~above~~ in subsection (1)(a), the county treasurer shall remit the surplus to the state treasurer for deposit to the state special revenue fund, state equalization aid account, immediately upon occurrence of a surplus balance and each subsequent month thereafter, with any final remittance due no later than June 20 of the fiscal year for which the levy has been set.

(2) The ~~proceeds~~ revenue realized from the county's portion of the levy prescribed in this section and the ~~revenues~~ revenue from the following sources ~~shall~~ must be used for the equalization of the high school district foundation programs of the county as prescribed in 20-9-334, and a separate accounting ~~shall~~ must be kept of ~~these~~ ~~proceeds~~ the revenue by the county treasurer in accordance with 20-9-212(1):

(a) any money remaining at the end of the immediately preceding school fiscal year in the county treasurer's accounts for the various sources of revenue established in this section;

(b) any federal or state ~~moneys~~ money distributed to the county as a payment in lieu of the property taxation established by the county levy required by this section, including federal forest reserve funds allocated under the provisions of 17-3-213;

(c) net proceeds taxes for interim production and new production, as defined in 15-23-601; and

(d) anticipated revenue from ~~vehicle~~ property taxes and fees imposed under 23-2-517, 23-2-803, 61-3-504(2), 61-3-521, ~~and~~ 61-3-537, and 67-3-204."

Section 14. Section 20-9-343, MCA, is amended to read:

"**20-9-343. Definition of and revenue for state equalization aid.** (1) As used in this title, the term "state equalization aid" means ~~those moneys~~ the money deposited in the state special revenue fund as required in this section plus any legislative appropriation of money from other sources for distribution to the public schools for the purpose of equalization of the foundation program.

(2) The legislative appropriation for state

equalization aid ~~shall~~ must be made in a single sum for the biennium. The superintendent of public instruction ~~has authority to~~ may spend ~~such~~ the appropriation, together with the earmarked revenues provided in subsection (3), as required for foundation program purposes throughout the biennium.

(3) The following ~~shall~~ must be paid into the state special revenue fund for state equalization aid to public schools of the state:

(a) ~~31.8% of all~~ money received from the collection of income taxes under chapter 30 of Title 15, as provided by 15-1-501;

(b) ~~25% of all money,~~ except as provided in 15-31-702, money received from the collection of corporation license and income taxes under chapter 31 of Title 15, as provided by 15-1-501;

(c) ~~100% of the~~ money allocated to state equalization from the collection of the severance tax on coal;

(d) ~~100% of the~~ money received from the treasurer of the United States as the state's shares of oil, gas, and other mineral royalties under the federal Mineral Lands Leasing Act, as amended;

(e) interest and income money described in 20-9-341 and 20-9-342;

(f) income from the education trust fund account; and

(g) ~~in addition to these revenues,~~ the surplus ~~revenues~~ revenue collected by the counties for foundation program support according to 20-9-331 and 20-9-333.

(4) Any surplus revenue in the state equalization aid account in the second year of a biennium may be used to reduce the appropriation required for the next succeeding biennium."

Section 15. Section 12, Chapter 666, Laws of 1987, is amended to read:

"Section 12. Termination -- special applicability. Section 6 applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1986, and ending prior to January 1, 1991, and terminates December ~~31, 1989~~ January 1, 1991. It is intended that the surtax apply to tax liabilities for all of taxable years 1987, 1988, 1989, and 1990, regardless of when the tax liability or the surcharge is calculated."

NEW SECTION. **Section 16.** Reversions. Any money remaining in the accounts established in 90-6-202(1) or (3) as of June 30, 1989, is allocated to state equalization aid to public schools provided in 20-9-343.

NEW SECTION. **Section 17.** Extension of authority. Any existing authority to make rules on the subject of the provisions of [this act] is extended to the provisions of [this act].

NEW SECTION. **Section 18.** Repealer. Section 20-9-352, MCA, is repealed.

NEW SECTION. **Section 19.** Effective date. [This act] is effective July 1, 1989.

NEW SECTION. **Section 20.** Applicability. (1) [Section 15] applies retroactively, within the meaning of 1-2-109, to May 22, 1987.

(2) [This act] applies to all tax revenue recorded on or after July 1, 1989, without regard to the time the tax accrued.

-End-

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON TAXATION

Call to Order: By Senator Bob Brown, Chairman, on March 22, 1989, at 8:00 a.m.

ROLL CALL

Members Present: Senator Brown, Senator Hager, Senator Norman, Senator Eck, Senator Bishop, Senator Halligan, Senator Walker, Senator Harp, Senator Gage, Senator Severson, Senator Mazurek, Senator Crippen

Members Excused: None

Members Absent: None

Staff Present: Jill Rohyans, Committee Secretary
Jeff Martin, Legislative Council

Announcements/Discussion: None

HEARING ON SENATE BILL 468

Presentation and Opening Statement by Sponsor:

Senator Harp, District 4, sponsor, said the bill has been on hold for about six weeks. It was brought to the attention of the committee that interest derived from certain areas of investment of the coal severance tax needed to be funneled into the general fund or the foundation program. This has been done in previous years. However, the bill deals with more than just certain segments of the coal severance tax revenue and how we spend those monies in Montana. The bill is also a response to the Loble decision and school funding. The bill does not entirely solve the problems but provides a vehicle from which to work. The bill is basically a combination of revenue resources including income taxes, coal severance, and property taxes. The intention is to equalize school funding through an evenly spread balance of the three funding sources.

The bill also changes the allocation of the money from income tax and corporate tax. The percentages that go to school equalization are changed and increased. The bill also continues the 10% surcharge which sunsetted in December, 1988.

Senator Harp said he is attempting to change the allocation in six areas of the coal severance tax fund: alternative energy, local impact, educational trust, county planning, renewable resources, and park acquisition. If all the money from these accounts is diverted to schools it would amount to $19 million. The programs are not repealed, the funds are diverted for a two year period only. All the interest income and 100% of the educational trust would also go into public school funding which would amount to a total of $37.2 million for the biennium.

Senator Harp said the coal counties will express concern about local impact money and road maintenance. Senator Harp pledged his assistance in locating alternate funding sources for these counties. He said these counties need to look closely at what impact there will be if the school equalization is based solely on property taxes. He urged everyone to look at the big picture.

List of Testifying Proponents and What Group they Represent:

Bruce Moerer, Montana School Boards Association

List of Testifying Opponents and What Group They Represent:

Hershel Robbins, Association of Oil, Gas and Coal Companies
Dennis Burr, Montana Taxpayers Association
James T. Mockler, Executive Director, Montana Coal Council
Janet Ellis, Montana Audubon
Senator Cecil Weeding, District 14, Rosebud and Treasure Counties
Jerome Anderson, Shell Western Exploration
Representative Marion Hanson, District 100
Leo Barry, Entech, a subsidiary of Montana Power
Representative Roger Knapp, Rosebud and Treasure Counties
Representative Robert Clark, District 31
Beth O'Halloran, Montana Federation of Teachers
Senator Dorothy Eck, District
Forest Boles, President, Montana Chamber of Commerce

Speaker Wishing To Present Neutral Testimony:

Ted Neuman, School District #1, Great Falls

Testimony:

Bruce Moerer, Montana School Boards Association, said he is not sure there is sufficient money in the bill, given the state SB 203 is in, to equalize. He said it is a step in the right direction and a compromise approach.

Opponents:

Hershel Robbins, Association of Oil, Gas and Coal Companies, presented his testimony in opposition to the bill (Exhibit #1).

Dennis Burr, Montana Taxpayers Association, said this bill does not take the proper approach. Montana currently has the highest property tax rates in the nation and this increases the state property tax from 45 mills to 75 mills. We also have the highest marginal income rate in the nation once the 10% surtax is included and this bill continues the surtax for at least another two years. The property tax base is decreasing in Montana which is one of the problems in trying to continue funding for education through this funding source. If 75 mills were enough to equalize in this biennium, it will be more in the next biennium. Overworking the system is causing property to leave the state and the property tax base to decrease every year. If the surcharge is imposed again, the withholding will have to be doubled.

Mr. Burr pointed out the eastern coal and oil counties have lower levies than other counties in the state. One of the reasons is because they contain property that is taxed at higher rates. We tax 100% of the net proceeds for oil and gas and 45% of the gross proceeds of coal. The state takes a very large amount and, as a result, those counties have lower local mill levies. In urban areas we tax 3 or 4 or 5% of the market value of property, therefore, higher local levies are needed to raise the necessary revenue through property taxes for local government. He said if we are going to work the property taxes harder than ever we had better look at classification system reform at the same.

James T. Mockler, Executive Director, Montana Coal Council, presented proposed amendments to the bill (Exhibit #2). Mr. Mockler said the amendments lower the coal

severance tax by 1.35%. The coal severance tax is not a property tax, but a gross receipts tax. The minerals industry is the only industry is the only industry in Montana which pays gross receipts and, therefore, they pay considerably more than anyone else. He said they would also pay the 30 mill increase if the bill passes.

Mr. Mockler also presented a proposed amendment to reinstate the Coal Board (Exhibit #3). One of the big selling points when the severance tax was passed was that $25 million would be put into a fund for coal area highways. There was some money spent on the Forsyth road but the bulk of the $25 million has basically disappeared and Mr. Mockler said he has never been able to find out where it went. Reinstating the Coal Board would allow them to build the Decker road and fund the drug task force.

Janet Ellis, Montana Audubon, expressed concern about the effect the bill would have on parks and park acquisition. Currently the only money keeping Montana parks open is the coal tax trust money. The tourist industry is the fastest growing industry in the state and yet we rank 48th in the nation in total operating budgets of state parks.

Senator Cecil Weeding, District 14, Rosebud and Treasure Counties, said he represents areas whose roads are highly impacted by the coal and oil industry. He said the counties cannot afford to build road for the coal companies and requested the local impact provisions be retained in the bill.

Jerome Anderson, Shell Western Exploration, presented the committee with net proceeds tax table as it applies to Shell (Exhibit #4). He said they produce approximately 30% of the crude oil in the state out of operations in Fallon, Dawson, and Mineral counties. If the bill is to be passed by the committee, Mr. Anderson asked that it be amended to reduce severance taxes to ameliorate the increase in the net proceeds taxes. The 30 mill increase in the bill is equivalent to approximately 40% of the severance taxes Shell pays. A reduction from 5% to 3% would correct the problem. He pointed out increasing the net proceeds tax to a significant degree will have a detrimental effect on expansion of infield operations of oil companies in the state.

Representative Marion Hanson, District 100, representing counties in eastern Montana, said the rural roads need improvements due to the oil traffic. She said the Coal

Board Impact Fund is very important to those impacted counties and should be left alone. She noted the counties where there is significant production have generated a great deal of money for the entire state and they need the impact monies to maintain their roads and bridges.

Leo Barry, Entech, said equalization cannot be balanced solely on property tax. He said they support the first amendment proposed by Mr. Mockler. Due to the "window of opportunity" put in place four years ago, the market has responded dramatically and coal production is at a record high. The impact of the 30 mill raise in this bill would equal a raise in the coal severance tax of 1.35%. He said Mr. Mockler's amendment create a level playing field and allow the industry to continue to compete. He pointed out this would only effect the tax paid on gross proceeds and the other personal property tax would be subject to the additional 30 mills.

Representative Knapp, Rosebud and Treasure Counties, said the coal impact fund is very important to his area. He contended the legislature has to quit robbing funds to make budget ends meet. This is a short term fix for the state which will have long range impact on the counties and ultimately cost the state more.

Representative Robert Clark, District 31, said this bill is not the way to balance the budget. He said there is a new mine planned to open shortly in his district which will create 125 new jobs. Yellowstone and Musselshell Counties will both be impacted by this new development and will need the impact monies to deal with the problems associated with the mine and transportation needs. He pointed out the drug enforcement is a critically important program and would be crippled without its funding.

Beth O'Halloran, Montana Federation of Teachers, expressed opposition to the bill.

Senator Dorothy Eck, Bozeman, expressed opposition to the bill for the aforementioned reasons. She said she was especially concerned about the cut in funds to park development as well as other special funds which are being cut. She felt 75 mills is not enough to equalize schools and doubted that the 100 mills being proposed by the House will be enough either. The 100 mills would still mean $85 million must be found from the general fund and this bill would require another $50 million. She said the committee needs to be addressing

a comprehensive tax reform measure rather than raiding the small funds and trying for the short term solution which will just cause larger funding problems in years to come.

Forest Boles, President, Montana Chamber of Commerce, expressed his opposition to an extension of the surcharge.

Neutral Speaker:

Ted Neuman, School District #1, Great Falls, said a tax mix makes sense in reaching a middle ground for education. He felt the bill addresses this fairly well. Some changes are needed, he felt, but he generally supports the concept of the bill as it broad based.

Questions from Committee Members:

Senator Gage was absent during most of the hearing due to his presenting a bill in another committee. He asked several questions which were of an informational nature and had been answered by testimony during the hearing.

Closing by Sponsor: Senator Harp closed.

EXECUTIVE SESSION

DISPOSITION OF SENATE BILL 459

Discussion: See following

Amendments and Votes:

Senator Walker MOVED to amend the bill by changing the rate on pages 16 to 32.3% and striking Section 8 from subsection 2 to the end of Section 8.

Senator Mazurek asked if this change included the self employment tax or was limited strictly to federal tax liability on income earned not including self-employment and other similar taxes.

Mr. Holland assumed it was excluded, but admitted it was not well defined.

Senator Gage said he felt the two were different but indicated the distinction needed to be clarified.

Steve Bender, DOR, said the Department has done an analysis of the bill and SB 307 and determined the outcome of either bill will be essentially the same. There is an effective marginal rate at the top end of 9%. He said there are approximately 40,000 to 50,000 Montana taxpayers who are paying federal taxes that are not required to pay state under this proposal.

Senator Crippen noted that in SB 463 a large number of low income taxpayers will be dropped from the tax rolls. He felt it is imperative to make sure that the low income people are dropped if the sales tax proposal continues.

The motion to amend the bill CARRIED unanimously.

Recommendation and Vote:

Senator Severson MOVED SB 459 Be Tabled. The motion CARRIED on a roll call vote (Exhibit #5).

DISPOSITION OF SENATE BILL 468

Discussion: See following

Amendments and Votes:

Senator Eck MOVED the mills be increased from 75 to 100.

Recommendation and Vote:

Senator Crippen made a SUBSTITUTE MOTION that SB 468 Be Tabled. He said he didn't think any action should be taken on the bills left before the committee until they take a look at the sales tax proposal which is going to be presented. He felt a better decision could be made when all the revenue bills can be reviewed in relation to each other.

Senator Brown expressed concern about the approaching transmittal deadline for revenue bills and the fact that we may be looking at a special session if some action is not taken soon.

Senator Harp said SB 468 does not compete with the sales tax. The sales tax would not take effect for two years and SB 468 would help with the interim period funding.

Senator Crippen said the administration does not seem to feel that they need the surtax to balance the budget. He said we may still need this bill, however, but felt we should wait until Monday to see what is going to happen on the floor.

Senator Mazurek said if we are going to work seriously on the bill there are amendments that need to be considered regarding the bonding mechanism, park funding, etc.

Senator Brown suggested we meet on adjournment and also an hour early in the morning which gives the members of the committee time to prepare the amendments they feel need to be added to the bill.

ADJOURNMENT

Adjournment At: 10:00 a.m.

SENATOR BOB BROWN, Chairman

BB/jdr

MIN322.jdr

TAXATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 3/22/89

NAME	PRESENT	ABSENT	EXCUSED
SENATOR BROWN	X		
SENATOR BISHOP	X		
SENATOR CRIPPEN	X		
SENATOR ECK	X		
SENATOR GAGE	X		
SENATOR HAGER	X		
SENATOR HALLIGAN	X		
SENATOR HARP	X		
SENATOR MAZUREK	X		
SENATOR NORMAN	X		
SENATOR SEVERSON	X		
SENATOR WALKER	X		

Each day attach to minutes.

EXHIBIT NO. 1
DATE 3/22/89
BILL NO. SB 468

TESTIMONY IN OPPOSITION TO SENATE BILL 468
SENATE TAXATION COMMITTEE HEARING
ROOM 413-415, STATE CAPITOL
WEDNESDAY, MARCH 22, 1989

FOR THE RECORD, MY NAME IS HERSHEL ROBBINS AND I REPRESENT THE ASSOCIATION OF OIL, GAS AND COAL COUNTIES.

I SPEAK TODAY IN OPPOSITION TO SENATE BILL 468 WHICH ONCE AGAIN SEEKS TO ELIMINATE THE COAL SEVERANCE TAX ALLOCATION TO THE LOCAL IMPACT ACCOUNT BECAUSE THE TAXPAYING RESIDENTS OF THE COUNTIES I REPRESENT MUST MAKE UP THIS LOSS OF REVENUE.

I STRONGLY OPPOSE THIS TACTIC OF ATTEMPTING TO REMOVE THE COAL BOARD FUNDS AND PLACE THEM IN THE SCHOOL FOUNDATION PROGRAM AS A MEANS OF SATISFYING THE COURT DECISION TO EQUALIZE SCHOOL FUNDING ON A STATEWIDE BASIS. THE SIX MILLION PLUS DOLLARS THAT WOULD BE REALIZED FROM THIS ILL CONCEIVED ACT OVER THE NEXT BIENNIUM WOULD HAVE A NEGLIGIBLE EFFECT ON EDUCATION'S NEEDS. FOR EXAMPLE, EDUCATION IN THE STATE OF MONTANA HAS BENEFITED FROM COAL TAX REVENUES OVER THE PAST 13 YEARS TO THE TUNE OF SOME 180 MILLION DOLLARS AND HERE WE ARE TODAY STILL TRYING TO FUND EDUCATION WITH A STOPGAP BAND-AID APPROACH. THE COAL BOARD CERTAINLY SUPPORTS EDUCATION AS SHOWN BY ITS RECORD OF 25 MILLION DOLLARS IN GRANTS AND ALMOST SEVEN MILLION IN REVERSIONS TO THE EDUCATION TRUST.

JUST LAST MONTH I APPEARED BEFORE THE SENATE NATURAL RESOURCES COMMITTEE TO OPPOSE SENATE BILL 224 AND SENATE BILL 238 WHICH ATTEMPTED TO DO EXACTLY WHAT THIS BILL IS TRYING TO ACCOMPLISH - TO DE-EARMARK COAL SEVERANCE TAX FUNDS AND REMOVE THE COAL BOARD PROGRAM. TWENTY THREE OPPONENTS TESTIFIED IN OPPOSITION TO SB 224 WITH NO PROPONENTS . THE COMMITTEE VOTED 8 TO 4 TO SEND OUT AN ADVERSE COMMITTEE REPORT WHICH THE SENATE CONCURRED IN BY A 32-11 MARGIN. SB 238 SUFFERED A SIMILAR WELL DESERVED FATE WITH A 10-1 ADVERSE REPORT FROM THE COMMITTEE AND A 22-6 VOTE IN THE SENATE. THE WILL OF THE SENATE HAS ALREADY BEEN RECORDED IN STRONG OPPOSITION TO THIS MEANS OF ATTEMPTING TO REMOVE THE COAL IMPACT FUNDS.

JUST LAST SESSION THE LEGISLATURE DIPPED INTO THE EDUCATION TRUST FUND TO HELP BALANCE THE STATE BUDGET AND WE ARE FACED WITH A FUNDING CRISIS AGAIN THIS SESSION. SURELY, THAT LESSON OF ROBBING ACCOUNTS TO SOLVE LONG RANGE PROBLEMS DOES NOT WORK AND THIS MEASURE IS ANOTHER EXAMPLE OF THAT APPROACH.

I URGE THIS COMMITTEE TO REJECT SENATE BILL 468. THANK YOU.

TAXATION
EXHIBIT NO. 2
DATE 3/27/89
SB 468

Montana Coal Council
Amendments to
SB 468

Amendment #1:

Page 1: Following: line 11
Insert: "PROVIDING A REDUCTION IN COAL SEVERANCE TAX;"

Page 1: In line 13
Following: "15-30-108,"
Insert: "15-35-103,"

Page 7: Following: line 13
Insert: New Section 5. as follows:

Section 5. Section 15-35-103, MCA, is amended to read:

"15-35-103. Severance tax--rates imposed--exemptions. (1) Except as provided in subsection (2), a severance tax is imposed on each ton of coal produced in the state in accordance with the following schedule:

(a) Fiscal Years 1988 and 1989:

Heating Quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	12 cents or 20% of value	5 cents or 3% of value
7,000-8,000	22 cents or 30% of value	8 cents or 4% of value
8,000-9,000	34 cents or 30% of value	10 cents or 4% of value
Over 9,000	40 cents or 30% of value	12 cents or 4% of value

(b) Fiscal Year 1990:

Heating Quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	12 cents or 13% of value	5 cents or 3% of value
7,000-8,000	22 cents or 25% of value	8 cents or 4% of value

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DATE 3/22/89
BILL NO. SB 488

8,000-9,000	34 cents or 25% of value	~~10 cents or~~ 4% of value
Over 9,000	40 cents or 25% of value	12 cents or 4% of value

(c) Fiscal Year 1991 and Thereafter:

Heating Quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	12 cents or 13% of value	5 cents or 3% of value
7,000-8,000	22 cents or 20% of value	8 cents or 4% of value
8,000-9,000	34 cents or 20% of value	10 cents or 4% of value
Over 9,000	40 cents or 20% of value	12 cents or 4% of value

(2)(a)(i) On or before October 1, 1988, the department shall determine the total number of tons of coal produced in Montana and sold from July 1, 1987, through June 30, 1988. If the department finds that these sales exceed 32.2 million tons (which is the average total yearly coal sales for calendar years 1983, 1984, 1985, and 1986), the rate of the coal severance tax is as set forth in subsections (2)(b) through ~~(2)(d)~~ (2)(e).

(ii) If any facility that burned Montana coal at any time from July 1, 1987, to June 30, 1988, does not operate during a portion of that period due to mechanical failure or catastrophic act of God, the department shall determine the average monthly sales of Montana coal to the facility during its operation and multiply this figure by 12. The department shall include the product of this calculation in making its determination of coal produced in Montana and sold from July 1, 1987, through June 30, 1988.

(b) The severance tax imposed pursuant to subsection (2)(a) on each ton of coal produced in the state from July 1, 1988, through June 30, ~~1990~~ 1989, is:

Heating Quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	12 cents or 17% of value	5 cents or 3% of value

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7,000-8,000	22 cents or 25% of value	8 cents or 4% of value
8,000-9,000	34 cents or 25% of value	10 cents or 4% of value
Over 9,000	40 cents or 25% of value	12 cents or 4% of value

(c) The severance tax imposed pursuant to subsection (2)(a) on each ton of coal produced in the state from July 1, 1989, through June 30, 1990, is:

Heating Quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	12 cents or 15.65% of value	5 cents or 1.65% of value
7,000-8,000	22 cents or 23.65% of value	8 cents or 2.65% of vaue
8,000-9,000	34 cents or 23.65% of value	10 cents or 2.65% of value
Over 9,000	40 cents or 23.65% of value	12 cents or 2.65% of value

~~(e)~~ (d) The severance tax imposed pursuant to subsection (2)(a) on each ton of coal produced in the state from July 1, 1990, through June 30, 1991, is:

Heating Quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	12 cents or ~~13%~~ 11.65% of value	5 cents or ~~3%~~ 1.65% of value
7,000-8,000	22 cents or ~~20%~~ 18.65% of value	8 cents or 4% 2.65% of value
8,000-9,000	34 cents or ~~20%~~ 18.65% of value	10 cents or 4% 2.65% of value
Over 9,000	40 cents or ~~20%~~ 18.65% of value	12 cents or 4% 2.65% of value

~~(d)~~ (e) The severance tax imposed pursuant to subsection (2)(a) on each ton of coal produced in the state after June 30, 1991, is:

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5/23/89
SB 468

Heating Quality (Btu per pound of coal):	Surface Mining	Underground Mining
Under 7,000	12 cents or ~~13%~~ 11.65% of value	5 cents or ~~3%~~ 1.65% of value
7,000-8,000	22 cents or ~~15%~~ 13.65% of value	8 cents or ~~4%~~ 2.65% of value
8,000-9,000	34 cents or ~~15%~~ 13.65% of value	10 cents or ~~4%~~ 2.65% of value
Over 9,000	40 cents or ~~15%~~ 13.65% of value	12 cents or ~~4%~~ 2.65% of value

(3) "Value" means the contract sales price.

(4) The formula which yields the greater amount of tax in a particular case shall be used at each point on these schedules.

(5) A person is not liable for any severance tax upon 50,000 tons of the coal he produces in a calendar year, except that if he produces more than 50,000 tons of coal in a calendar year, he will be liable for severance tax upon all coal produced in excess of the first 20,000 tons.

(6) A new coal production incentive tax credit may be claimed on certain coal as provided in 15-35-202."

TAXATION
EXHIBIT NO. 3
DATE 3/22/89
BILL NO. SB 468

Montana Coal Council
Amendments to
SB 468

Amendment #2:

Page 5, line 22: Reinstate stricken language "~~1989~~"
Delete new language "1991"

Page 5, line 24: Following: "~~thereafter~~"
Delete the following language:
"20% to the state special revenue fund to the credit of the local impact and education trust fund account and"

SENATE TAXATION
EXHIBIT NO. 4
DATE 3/7/89
BILL NO. SB 418

STATE OF MONTANA
ESTIMATED IMPACT USING GOVERNOR'S ADVISORY COUNCIL PARAMETERS
(NET PROCEEDS TAX-SHELL NET ONLY)
TAXABLE VALUE AND TAXES IN M$

FALLON COUNTY	PROPOSED PLANS PENDING @ 140 MLS	@160 MLS	@70	@100
CURRENT TYPICAL COUNTYWIDE LEVY (1)	$.11798	SAME	SAME	SAME
LESS: CURRENT SCHOOL LEVIES				
MANDATORY LEVY	.04500	SAME	SAME	SAME
VOTED LEVY (AVERAGE)	.04921	SAME	SAME	SAME
SUB-TOTAL	.09421	.09421	.09421	.09421
PLUS: ESTIMATED SCHOOL LEVIES				
MANDATORY	.14000	.16000	.07000	.10000
VOTED (ESTIMATED)	.04323	.04323	.04323	.04323
SUB-TOTAL	.18323	.20323	.11323	.14323
REVISED TYPICAL COUNTYWIDE LEVY (2)	.20700	.22700	.13700	.16700
TAX IMPACT - FALLON COUNTY				
TOTAL COUNTY TAXABLE VALUE	$47,500	SAME	SAME	SAME
X TYPICAL COUNTYWIDE LEVY (1)	.11798	SAME	SAME	SAME
CURRENT TAX	$ 5,604	$ 5,604	$ 5,604	$ 5,604
COUNTY TAXABLE VALUE X REVISED LEVY=NEW LEVY (2)	$ 9,832	$10,783	$ 6,508	$ 7,933
COUNTY DIFFERENCE - TAX INCREASE	$ 4,228	$ 5,179	$ 904	$ 2,329
% INCREASE (75%) (92%) (16%) (42%)				
TAX IMPACT - STATEWIDE				
CURRENT STATEWIDE TAX	$ 7,459	$ 7,459	$ 7,459	$ 7,459
STATEWIDE DIFFERENCE - TAX INCREASE	$ 5,922	$ 7,086	$ 1,584	$ 3,564
% INCREASE (79%) (95%) (21%) (48%)				
STATEWIDE TAX UNDER PROPOSED PLANS	$13,381	$14,545	$ 9,043	$11,023

BVAJ8906810

DATE March 27, 1989

COMMITTEE ON Taxation

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One	
			Support	Oppo
Herald Robbins	Oil - Gas + Coal Counties	SB 468		✓
Jim Mockler	MT. Coal Council	468		✓
Roger Knapp	H.D 27	468		✓
Janet Ellis	Audubon Society	468		✓
Fil-Buck Boles	Mont Chamber	SB 468		✓
Beth O'Halloran	MT Fed of Teachers	SB 468		✓
Kay Foster	Billings Chamber	SB 468		✓
JEL NEUMAN	School dist #1 / GREAT FALLS	SB 468	support concepts	
Tom Ebzery	Nerco			Am ✓

(Please leave prepared statement with Secretary)

Questions From Committee Members: Rep. O'Keefe asked Dr. Nortveldt about the refunds indicated on page 3, lines 14 to 22, does this mean if there is a refund, the county is still responsible for 80% of it and the state for 20% and if so, is this a new liability for state government. Dr. Nortveldt stated he was not sure on this but he understood that 20% had always gone to the state. Gordon Morris responded that there is an effective date of July 1, 1989 in the bill which keeps the liability for the refunds with counties and local jurisdictions for filings in the period ending December 31, 1988 tax year. He said under this bill there would be a transition process.

Closing by Sponsor: Sen. Eck stated there would still be refunds since all corporations have the ability to carry back and collect these funds. She said she would not object to the committee addressing the problem of how much of the tax is shared with the local school districts. She stated she would be glad to work on this area.

DISPOSITION OF SENATE BILL 458

Motion: None.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: None. Action will be taken at a later date.

HEARING ON SENATE BILL 468

Presentation and Opening Statement by Sponsor:

Senator John Harp, District 4, submitted a copy of SB 468 as it was originally introduced. (Exhibit 3). He stated the Senate Taxation Committee had amended the bill extensively. He said there was a need to allocate additional dollars back to the school districts and to look at alternative revenue sources to fund the school equalization rather than property taxes. He said these areas include the coal severance tax fund, the education trust fund, county planning board money, renewable resources and park acquisitions and the alternative energy account. He said there is 19 million dollars available from these areas that could be used for the school equalization.

Testifying Proponents and Who They Represent:

Gabe Lewis, Office of Budget and Planning

Proponent Testimony:

Gabe Lewis submitted an amendment to the bill. (Exhibit 4). He said this is to correct an error on page 9, line 18. He said the original intent was to take the 15% interest fund from the coal tax and apply this to school funding. He said the bill states 85% and should be 15%.

Testifying Opponents and Who They Represent:

Hershel Robin, Oil, Gas & Coal Counties of Montana
Jerome Anderson, Shell Western Exploration & Production Company
Don Hipp, Department of Fish, Wildlife and Parks

Opponent Testimony:

Hershel Robin stated there are seven bills currently in the Legislature to use the coal tax money. He said his organization strongly opposed the use of these funds for school equalization. He said they support education and funds have already been allocated to schools in the amount of $125,000,000.00 in grants from this industry. He urged defeat of the bill.

Jerome Anderson stated he opposed the mandatory statewide 75 mill levy under the bill which would increase Shell Oil's taxes by 25% in the net proceeds area. He said this would amount to approximately $2,000,000.00 in increased taxes. He said this increase would greatly affect the industry's production.

Don Hipp stated he wished to offer a point of clarification. He said as presently amended, the bill did not effect the parks coal tax trust but should that become a factor, he wished to inform the committee that the department was not using the money to acquire new land but for the day to day care of the park system.

Questions From Committee Members: Rep. Giacometto asked Sen. Harp how much of the 50% balance would go to the general fund. Sen. Harp replied he did not know.

Rep. Hansen asked Sen. Harp about the termination date in the bill stating it had been stricken. Sen. Harp responded this had to do with the surtax termination, not the termination of the entire bill.

Rep. Patterson asked Sen. Harp if the bill is returned to its original intent, when would the surtax go into effect. Sen. Harp replied it would be immediate and retroactive to January 1, 1989.

Rep. O'Keefe asked Sen. Harp if there was a new fiscal note on the bill. Sen. Harp replied there was not but the rough

estimate would be 18 to 20 million dollars.

Rep. Driscoll asked Mr. Anderson what amount of money the 5% severance tax brings in. Mr. Anderson replied $16,484,000.00 and $1,196,094.00 net proceeds. Rep. Driscoll then asked if the severance tax was lowered, each 1% reduction would be about $3.6 million. Mr. Anderson stated they should have some compensatory relief but they did not expect this amount.

Closing by Sponsor: Sen. Harp stated he did not intend to imply that the oil industry was not paying their fair share of taxes. He said it was time that certain industries be aware there will be a mandatory mill levy applied at some point in time for school funding. He said the bill was not a long term solution.

DISPOSITION OF SENATE BILL 468

Motion: None.

Discussion: None.

Amendments, Discussion, and Votes: None.

Recommendation and Vote: None. Action will be taken at a later date.

EXECUTIVE SESSION

DISPOSITION OF SENATE BILL 410 HEARD ON MARCH 30:

MOTION: DO PASS by Rep. Rehberg who also proposed an amendment offered by the Montana Mining Association.

DISCUSSION: Rep. Rehberg stated the amendment added a 1.81% for producers of concentrate and a 1.61% for the producers of bullion. He said this should have been included in the bill originally.

Rep. Giacometto stated this amendment was an agreement that had been worked out between all the concerned parties. Rep. Raney asked about the fiscal impact of this amendment and why the difference in the percentages. Gary Langley referred these questions, with the committee's permission, to Don Jenkins of the Golden Sunlight Mine who had been specifically involved in this area. Mr. Jenkins stated the concentrate is a mining material that is sent to a smelter. He said bullion is reprocessed ore. He said they can deduct their refining charges and the refiner deducts the smelting charges. He said the smelting costs are much larger than refining costs.

Chairman Harrington asked Mr. Hoffman from the Department of Revenue about the tax break vs revenue neutrality. Mr. Hoffman

stated with the 1.8% rate, the industry would be paying $110,000.00 more in taxes. He said the difference is a matter of interpretation.

Rep. Giacometto stated under the fiscal impact of this bill, mining operations will pay $7,447,000.00. He said under the current system, the amount would be $7,116,000.00 so this is an increase.

Rep. Raney asked if John Fitzpatrick could comment. The committee concurred. Mr. Fitzpatrick stated the bill had different effects on the various producers. He said some will have increases and some decreases in their taxes. He said the bill would be revenue neutral in the aggregate industry.

On the motion to DO PASS on the amendment, the motion CARRIED by a unanimous voice vote.

Rep. Dave Brown proposed another amendment to the bill. He stated 40% of the hard rock mining funds would go into a trust account with interest accruing. He said this fund could not be used until 50% of the mining company's force had been furloughed. He stated one-third of the money would go to elementary and high school districts and two-thirds would go to local governments. Rep. Brown said in addition, the full amount of funds now collected in the hard rock trust account in the state would go back by county of origin to the local impact trust account. He said 60% of the balance would go back, divided into thirds for schools and local governments, with the stipulation that the money be used only for planning and economic development.

Chairman Harrington stated this was very important and a good amendment.

Rep. Driscoll asked Rep. Brown how much money was currently in the hard rock mining trust. Rep. Brown replied $3.9 million. Rep. Driscoll stated the interest goes to the general fund. Rep. Brown said it did and the effective date of the bill is 1990. John Fitzpatrick stated the bill as it is without Rep. Brown's amendments, starts the new allocation procedure and tax rate beginning the first of 1989. He said they paid their taxes on a calendar year basis so their first payment would be March of 1990. Mr. Fitzpatrick stated Rep. Brown's amendments would not change this aspect of the bill but they change the money that is in the trust account. He submitted a document indicating the effects of Rep. Brown's and Sen. Beck's amendments. (Exhibit 5).

Rep. Gilbert moved the amendments.

Rep. Raney stated by putting on both amendments, the fiscal note would show a reduction of $50,000.00 in total tax paid by the industry. Rep. Brown said the tax would have been $100,000.00 but with this amendment it is reduced to $50,000.00 so the collections are still the same.

The motion to DO PASS the amendments CARRIED by a unanimous voice vote.

Chairman Harrington stated final action would be taken on the bill on Friday, April 7.

ADJOURNMENT

Adjournment At: 11:55 a.m.

REP. DAN HARRINGTON, Chairman

DH/lj

7615.min

DAILY ROLL CALL

TAXATION COMMITTEE

51st LEGISLATIVE SESSION -- 1989

Date April 5, 1989

NAME	PRESENT	ABSENT	EXCUSED
Harrington, Dan, Chairman	✓		
Ream, Bob, Vice Chairman	✓		
Cohen, Ben	✓		
Driscoll, Jerry	✓		
Eliott, Jim	✓		
Koehnke, Francis	✓		
O'Keefe, Mark	✓		
Raney, Bob	✓		
Schye, Ted	✓		
Stang, Barry	✓		
Ellison, Orval	✓		
Giacometto, Leo	✓		
Gilbert, Bob	✓		
Good, Susan	✓		
Hanson, Marian	✓		
Hoffman, Robert	✓		
Patterson, John	✓		
Rehberg, Dennis	✓		

EXHIBIT
DATE 4/15/89
SB 468
Sen. John Harp

Senate BILL NO. 468

INTRODUCED BY Harp Driscoll Nilan

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING CERTAIN LAWS RELATED TO TAXES, ALLOCATIONS OF STATE REVENUES, AND PUBLIC SCHOOL FINANCE; PROVIDING ADDITIONAL FUNDING FOR THE SCHOOL FOUNDATION PROGRAM BY CONTINUING THE 10 PERCENT SURTAX ON PERSONAL INCOME AND ALLOCATING THE INCREMENTAL REVENUE DERIVED THEREBY TO STATE EQUALIZATION OF THE FOUNDATION PROGRAM; INCREASING THE TOTAL LEVY FOR COUNTY EQUALIZATION OF THE FOUNDATION PROGRAM FROM 45 MILLS TO 75 MILLS; ELIMINATING THE SCHOOL DISTRICT PERMISSIVE LEVIES; AMENDING SECTIONS 15-1-501, 15-10-402, 15-30-108, 15-35-108, 17-5-408, 17-5-704, 20-3-324, 20-5-305, 20-5-312, 20-9-141, 20-9-301, 20-9-331, 20-9-333, AND 20-9-343, MCA, AND SECTION 12, CHAPTER 666, LAWS OF 1987; REPEALING SECTION 20-9-352, MCA; AND PROVIDING AN EFFECTIVE DATE AND APPLICABILITY DATES."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-1-501, MCA, is amended to read:

"15-1-501. Disposition of moneys from certain designated license and other taxes. (1) The state treasurer shall deposit to the credit of the state general fund all moneys money received by him from the collection of:

(a) fees from driver's licenses, motorcycle endorsements, and duplicate driver's licenses as provided in 61-5-121;

(b) electrical energy producer's license taxes under chapter 51;

(c) severance taxes allocated to the general fund under chapter 36;

(d) liquor license taxes under Title 16;

(e) telephone [company] license taxes under chapter 53; and

(f) inheritance and estate taxes under Title 72, chapter 16.

(2) All moneys money received from the collection of income taxes under chapter 30 of this title ~~shall~~ must be deposited as follows:

(a) ~~58.2%~~ 52.9% to the credit of the state general fund;

(b) ~~10%~~ 9.1% to the credit of the debt service account for long-range building program bonds as described in 17-5-408; and

(c) ~~31.8%~~ 38% to the credit of the state special revenue fund for state equalization aid to the public schools of Montana as described in 20-9-343.

(3) All moneys money received from the collection of corporation license and income taxes under chapter 31 of

EXHIBIT 1
DATE 4/5/89
SB 468
Sen. John Harp

HOUSE TAXATION COMMITTEE

Mr. Chairman: I move to amend SB 468 (third reading copy-blue) as Follows:

1. Page 9, line 11
Following: "funds"
Insert: "."

2. Page 9, line 12 through line 16
Strike: Page 9, line 12 through line 16
in their entirety
Renumber: subsequent subsections

3. Page 9, line 17
Following: "1989,"
Strike: "and prior to June 30, 1991,"

4. Page 9, line 18
Strike: "85%"
Insert: "15%"

VISITORS' REGISTER

HOUSE TAXATION COMMITTEE

BILL NO. SB 468 DATE April 5, 1989

SPONSOR Sen. John Harp

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
[illegible]	[illegible]		
Harold Hobbs	[illegible]		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

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